

## HOUSE BILL NO. 464

INTRODUCED BY B. BERGREN

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATING TO THE PRODUCTION OF ALCOHOL FOR FUEL PURPOSES AND RELATING TO FUEL CONTAINING ALCOHOL; INCLUDING BIODIESEL AS A PERMISSIBLE USE OF ALCOHOL; REDUCING THE TAX INCENTIVE FROM 30 CENTS TO 10 CENTS PER GALLON; REVISING THE TIME IN WHICH TAX CREDITS MAY BE PAID; PROVIDING THAT INCENTIVE PAYMENTS MAY BEGIN WITHIN 12 MONTHS AFTER THE COMPLETION OR REMODELING OF A PRODUCTION FACILITY IF CERTAIN PRODUCTION CRITERIA ARE MET; REDUCING THE AMOUNT OF PAYMENTS THAT MAY BE MADE TO AN ALCOHOL DISTRIBUTOR IN A CALENDAR YEAR FROM \$3 MILLION TO \$1 MILLION; CLARIFYING THAT PAYMENTS MUST BE PRORATED AMONG DISTRIBUTORS; ELIMINATING REQUIREMENTS FOR BUSINESS PLANS AND LOSS OF PRIORITY; REVISING THE CONDITIONS FOR AN IN-STATE INVESTMENT FOR ALCOHOL PRODUCTION TO BE USED FOR FUEL; EXTENDING THE PERMISSIBLE PERIOD FOR LOANS; ALLOWING THE PAYMENT OF DIVIDENDS AND BONUSES UNDER CERTAIN CONDITIONS; DIRECTING THE DEPARTMENT OF LABOR AND INDUSTRY TO ADOPT STANDARDS AND SPECIFICATIONS ENSURING THAT ALL GASOLINE SOLD TO CONSUMERS FOR USE IN MOTOR VEHICLES TO BE OPERATED ON PUBLIC ROADS IS BLENDED WITH ETHANOL AND PROVIDING THAT THE GASOLINE MAY NOT CONTAIN MORE THAN TRACE AMOUNTS OF MTBE; CREATING CERTAIN EXCEPTIONS TO THE REQUIREMENT TO USE ETHANOL-BLENDED GASOLINE; PROVIDING FOR ENFORCEMENT BY THE DEPARTMENT OF LABOR AND INDUSTRY; ELIMINATING THE ALTERNATIVE FUEL MOTOR VEHICLE CONVERSION TAX CREDIT FOR CONVERSION OF A MOTOR VEHICLE TO THE USE OF METHANOL, ETHANOL, OR OTHER ALCOHOL; REVISING THE PROVISIONS TAXING GASOHOL AND BIODIESEL AT 85 PERCENT OF THE GASOLINE LICENSE TAX AND SPECIAL FUEL TAX RATES; REMOVING THE REQUIREMENTS THAT TAX LABELS BE PLACED ON GASOHOL AND BIODIESEL PUMPS; AMENDING SECTIONS 15-30-164, 15-70-204, 15-70-321, 15-70-502, 15-70-503, 15-70-522, 17-6-317, 82-15-103, AND 82-15-110, MCA; REPEALING SECTIONS 15-70-245 AND 15-70-370, MCA, AND SECTION 13, CHAPTER 568, LAWS OF 2001; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 15-30-164, MCA, is amended to read:

**"15-30-164. Credit for alternative fuel motor vehicle conversion.** (1) (a) Except as provided in subsection (1)(b), an individual, a corporation, a partnership, or a small business corporation as defined in 15-30-1101 is allowed a tax credit against taxes imposed by 15-30-103 or 15-31-101 for equipment and labor costs incurred to convert a motor vehicle licensed in Montana to operate on alternative fuel.

(b) A seller of alternative fuel may not receive a credit for converting its own vehicles to the alternative fuel that it sells.

(2) The maximum credit a taxpayer may claim in a year under this section is an amount equal to 50% of the equipment and labor costs incurred but the credit may not exceed:

(a) \$500 for conversion of a motor vehicle with a gross weight of 10,000 pounds or less; or

(b) \$1,000 for conversion of a motor vehicle with a gross vehicle weight over 10,000 pounds.

(3) For the purposes of this section, "alternative fuel" means:

(a) natural gas;

(b) liquefied petroleum gas;

(c) liquefied natural gas;

(d) hydrogen; or

(e) electricity; ~~or~~

~~—— (f) any other fuel if at least 85% of the fuel is methanol, ethanol or other alcohol, ether, or any combination of them.~~

(4) (a) The credit allowed under this section may not exceed the taxpayer's income tax liability.

(b) There is no carryback or carryforward of the credit permitted under this section, and the credit must be applied in the year the conversion is made, as determined by the taxpayer's accounting method."

**Section 2.** Section 15-70-204, MCA, is amended to read:

**"15-70-204. (Temporary) Gasoline license tax -- rate.** (1) Each distributor shall pay to the department a license tax for the privilege of engaging in and carrying on business in this state in an amount equal to:

(a) 4 cents for each gallon of aviation fuel, other than fuel sold to the federal defense fuel supply center,

1 which is allocated to the department as provided by 67-1-301; and

2 (b) 27 cents for each gallon of all other gasoline distributed by the distributor within the state and upon  
3 which the gasoline license tax has not been paid by any other distributor.

4 (2) Gasoline exported may not be included in the measure of the distributor's license tax unless the  
5 distributor is not licensed and is not paying the tax to the state the fuel is destined for.

6 ~~(3) Alcohol that is blended or is to be blended with gasoline to be sold as gasohol is subject to a tax per  
7 gallon equal to the license tax imposed on nonaviation gasoline distributors under subsection (1).~~

8 **15-70-204. (Effective on occurrence of contingency) Gasoline license tax -- rate.** (1) Each  
9 distributor shall pay to the department a license tax for the privilege of engaging in and carrying on business in  
10 this state in an amount equal to:

11 (a) 4 cents for each gallon of aviation fuel, other than fuel sold to the federal defense fuel supply center,  
12 which is allocated to the department as provided by 67-1-301; and

13 (b) 27 cents for each gallon of all other gasoline distributed by the distributor within the state and upon  
14 which the gasoline license tax has not been paid by any other distributor.

15 (2) Gasoline exported may not be included in the measure of the distributor's license tax unless the  
16 distributor is not licensed and is not paying the tax to the state the fuel is destined for.

17 (3) (a) Gasohol, as defined in 15-70-201; Subject to subsection (3)(b), gasohol is subject to 85% of the  
18 tax imposed in subsection (1)(b).

19 (b) On the date that the requirement for use of gasohol contained in [section 10] occurs, gasohol is  
20 subject to the tax imposed in subsection (1)(b). ~~(Terminates June 30 of fourth year following date of occurrence~~  
21 ~~of contingency--sec. 13, Ch. 568, L. 2001.)~~

22 **15-70-204. (Effective July 1 of fourth year following date of occurrence of contingency) Gasoline**  
23 **license tax -- rate.** (1) Each distributor shall pay to the department a license tax for the privilege of engaging  
24 in and carrying on business in this state in an amount equal to:

25 ~~—— (a) 4 cents for each gallon of aviation fuel, other than fuel sold to the federal defense fuel supply center,~~  
26 ~~which is allocated to the department as provided by 67-1-301; and~~

27 ~~—— (b) 27 cents for each gallon of all other gasoline distributed by the distributor within the state and upon~~  
28 ~~which the gasoline license tax has not been paid by any other distributor.~~

29 ~~—— (2) Gasoline exported may not be included in the measure of the distributor's license tax unless the~~  
30 ~~distributor is not licensed and is not paying the tax to the state the fuel is destined for.~~

~~1       (3) Alcohol that is blended or is to be blended with gasoline to be sold as gasohol is subject to a tax per~~  
~~2       gallon equal to the license tax imposed on nonaviation gasoline distributors under subsection (1)."~~

3  
4       **Section 3.** Section 15-70-321, MCA, is amended to read:

5       **"15-70-321. (Temporary) Tax on special fuel and volatile liquids.** (1) The department shall, under  
6       the provisions of rules issued by it, collect or cause to be collected from the owners or operators of motor  
7       vehicles a tax, as provided in subsection (2):

8           (a) for each gallon of undyed special fuel or other volatile liquid, except liquid petroleum gas, of less  
9       than 46 degrees A.P.I. (American petroleum institute) gravity test when actually sold or used to produce motor  
10      power to operate motor vehicles upon the public roads and highways of this state;

11          (b) for each gallon of special fuel or other volatile liquid, except liquid petroleum gas, of less than 46  
12      degrees A.P.I. (American petroleum institute) gravity test when actually sold or used in motor vehicles, motorized  
13      equipment, and the internal combustion of any engines, including stationary engines, used in connection with  
14      any work performed under any contracts pertaining to the construction, reconstruction, or improvement of any  
15      highway or street and their appurtenances awarded by any public agencies, including federal, state, county,  
16      municipal, or other political subdivisions; and

17          (c) for each gallon of dyed special fuel delivered into the fuel supply tank of a diesel-powered highway  
18      vehicle, regardless of weight, operating upon the public roads and highways of this state.

19          (2) The tax imposed in subsection (1) is 27 3/4 cents per gallon.

20      **15-70-321. (Effective on occurrence of contingency) Tax on special fuel and volatile liquids.** (1)  
21      The department shall, under the provisions of rules issued by it, collect or cause to be collected from the owners  
22      or operators of motor vehicles a tax, as provided in subsection (2):

23          (a) for each gallon of undyed special fuel or other volatile liquid, except liquid petroleum gas and  
24      biodiesel, of less than 46 degrees A.P.I. (American petroleum institute) gravity test when actually sold or used  
25      to produce motor power to operate motor vehicles upon the public roads and highways of this state;

26          (b) for each gallon of special fuel or other volatile liquid, except liquid petroleum gas and biodiesel, of  
27      less than 46 degrees A.P.I. (American petroleum institute) gravity test when actually sold or used in motor  
28      vehicles, motorized equipment, and the internal combustion of any engines, including stationary engines, used  
29      in connection with any work performed under any contracts pertaining to the construction, reconstruction, or  
30      improvement of any highway or street and their appurtenances awarded by any public agencies, including

1 federal, state, county, municipal, or other political subdivisions;

2 (c) for each gallon of dyed special fuel delivered into the fuel supply tank of a diesel-powered highway  
3 vehicle, regardless of weight, operating upon the public roads and highways of this state; and

4 (d) for each gallon of biodiesel delivered into the fuel supply tank of a highway vehicle, regardless of  
5 weight, operating upon the public roads and highways of this state.

6 (2) (a) The tax imposed in subsections (1)(a) through (1)(c) is 27 3/4 cents per gallon.

7 (b) ~~The~~ Except as provided in subsection (2)(c), the tax imposed in subsection (1)(d) is 85% of the  
8 amount provided for in subsection (2)(a).

9 (c) On the date that the requirement for use of gasohol contained in [section 10] occurs, biodiesel is  
10 subject to the tax imposed in subsection (2)(a). ~~(Terminates June 30 of fourth year following date of occurrence~~  
11 ~~of contingency--sec. 13, Ch. 568, L. 2001.)~~

12 **15-70-321. (Effective July 1 of fourth year following date of occurrence of contingency) Tax on**  
13 **special fuel and volatile liquids.** ~~(1) The department shall, under the provisions of rules issued by it, collect~~  
14 ~~or cause to be collected from the owners or operators of motor vehicles a tax, as provided in subsection (2):~~

15 ~~—— (a) for each gallon of undyed special fuel or other volatile liquid, except liquid petroleum gas, of less~~  
16 ~~than 46 degrees A.P.I. (American petroleum institute) gravity test when actually sold or used to produce motor~~  
17 ~~power to operate motor vehicles upon the public roads and highways of this state;~~

18 ~~—— (b) for each gallon of special fuel or other volatile liquid, except liquid petroleum gas, of less than 46~~  
19 ~~degrees A.P.I. (American petroleum institute) gravity test when actually sold or used in motor vehicles, motorized~~  
20 ~~equipment, and the internal combustion of any engines, including stationary engines, used in connection with~~  
21 ~~any work performed under any contracts pertaining to the construction, reconstruction, or improvement of any~~  
22 ~~highway or street and their appurtenances awarded by any public agencies, including federal, state, county,~~  
23 ~~municipal, or other political subdivisions; and~~

24 ~~—— (c) for each gallon of dyed special fuel delivered into the fuel supply tank of a diesel-powered highway~~  
25 ~~vehicle, regardless of weight, operating upon the public roads and highways of this state.~~

26 ~~—— (2) The tax imposed in subsection (1) is 27 3/4 cents per gallon."~~

27  
28 **Section 4.** Section 15-70-502, MCA, is amended to read:

29 **"15-70-502. Purpose.** The purpose of this part is to establish schedules for the tax incentive for the  
30 production of alcohol to be blended for gasohol or biodiesel and to provide for the proper administration and

1 enforcement of the tax incentive. The schedules for the tax incentive are designed to stimulate the development  
2 of alcohol fuel production in Montana while limiting the cost to the state of the tax incentive to amounts that are  
3 reasonable in relation to the highway revenue needs of Montana."

4  
5 **Section 5.** Section 15-70-503, MCA, is amended to read:

6 **"15-70-503. Definitions.** As used in this part, the definitions in 15-70-201 and the following definitions  
7 apply:

8 (1) "Alcohol distributor" means any person who, for the purpose of making gasohol or biodiesel,  
9 engages in the business of producing alcohol for sale, use, or distribution.

10 (2) "Department" means the department of transportation.

11 (3) "Export" means to transport out of Montana from any point of origin within Montana by any means  
12 other than in the fuel supply tank of a motor vehicle.

13 (4) "Gasohol dealer" means any person who blends alcohol with gasoline or diesel fuel to produce  
14 gasohol or biodiesel for sale, use, or distribution in this state."

15  
16 **Section 6.** Section 15-70-522, MCA, is amended to read:

17 **"15-70-522. Tax incentive for production of alcohol -- written plan required -- reservation of**  
18 **incentives -- rules.** (1) (a) If the alcohol was produced in Montana from Montana agricultural products, including  
19 Montana wood or wood products, or if the alcohol was produced from non-Montana agricultural products when  
20 Montana products are not available, there is a tax incentive payable to alcohol distributors for distilling alcohol  
21 that:

22 (i) is to be blended with gasoline or diesel fuel for sale as gasohol or biodiesel in Montana;

23 (ii) was exported from Montana to be blended with gasoline for sale as gasohol or biodiesel; or

24 (iii) is to be used in the production of ethyl butyl ether for use in reformulated gasoline.

25 (b) Payment must be made by the department out of the amount collected under 15-70-204.

26 (2) Except as provided in subsections (3) and (4), the tax incentive on each gallon of alcohol distilled  
27 in accordance with subsection (1) is ~~30~~ 10 cents a gallon for each gallon that is 100% produced from Montana  
28 products, with the amount of the tax incentive for each gallon reduced proportionately, based upon the amount  
29 of agricultural or wood products not produced in Montana that is used in the production of the alcohol. ~~Beginning~~  
30 ~~July 1, 2010, there is no tax incentive.~~ The tax incentive is available to a facility for the first 6 years from the date

1 that the facility begins production. The facility must file the date with the department.

2 (3) Regardless of the alcohol tax incentive provided in subsection (2), the total payments made for the  
3 incentive under this part may not exceed \$6 million in any consecutive 12-month period.

4 (4) An alcohol distributor may not receive tax incentive payments under subsection (2) that exceed \$3  
5 \$1 million in any consecutive 12-month period. Subject to subsection (5), an alcohol distributor may receive tax  
6 incentive payment commencing 12 months after completion of construction or remodeling of a production facility.  
7 Subject to subsection (5), all alcohol distributors that have completed construction or remodeling that are  
8 producing alcohol from Montana agricultural products, including wood or wood products, are eligible to receive  
9 a tax incentive payment. Subject to the limits in subsection (3) and this subsection, the tax incentive payment  
10 must be prorated among all alcohol distributors.

11 ~~(5) An alcohol distributor may not receive tax incentive payments under subsection (2) unless the~~  
12 ~~distributor has provided a written business plan to the department of transportation at least 24 months before~~  
13 ~~the distributor's anticipated collection of the tax incentives and has complied with the schedule provided for in~~  
14 ~~subsection (6). The plan must contain the following information:~~

15 ~~—— (a) the source or sources of financing for the acquisition of the plant, land, and equipment used for the~~  
16 ~~production of alcohol for use in gasohol;~~

17 ~~—— (b) the anticipated source of agricultural products used in the production of alcohol for use in gasohol;~~  
18 ~~and~~

19 ~~—— (c) the anticipated time, quantity, and duration of production of alcohol for use in gasohol.~~

20 ~~—— (6) An applicant that has provided the department with a written business plan shall meet the following~~  
21 ~~schedule to be able to receive alcohol tax incentive payments:~~

22 ~~—— (a) start building construction or remodeling within 24 months of the date on which the department~~  
23 ~~received the business plan;~~

24 ~~—— (b) complete 50% of construction or remodeling of a production facility within 36 months of the date on~~  
25 ~~which the business plan was received; and~~

26 ~~—— (c) complete 100% of construction or remodeling of a production facility and be in production of alcohol~~  
27 ~~for use in gasohol for distribution within 48 months of the date on which the business plan was received.~~

28 ~~—— (7) If the applicant does not adhere to the schedule in subsection (6), the applicant loses its priority for~~  
29 ~~receiving incentive payments.~~

30 ~~(8)~~(5) After the department has verified production, the department shall begin payments of the alcohol

1 tax incentives based on actual production according to the terms of subsection (2) 12 months after the  
2 completion or remodeling of the production facility.

3 ~~(9) The department shall reserve, in the order that written plans required under subsection (5) are~~  
4 ~~received by the department, alcohol tax incentives based on the anticipated time, quantity, and duration of~~  
5 ~~production.~~

6 ~~—— (10) A new tax incentive payment may not be made if the total tax incentive established in subsection~~  
7 ~~(3) has been reserved or paid. If an alcohol tax incentive has been reduced or canceled, the amount by which~~  
8 ~~the tax incentive has been reduced or canceled is available for reservation as provided in subsection (9).~~

9 ~~(11)~~(6) The department shall prescribe rules necessary to carry out the provisions of this section."  
10

11 **Section 7.** Section 17-6-317, MCA, is amended to read:

12 **"17-6-317. Participation by private financial institutions -- rulemaking.** (1) (a) The board may jointly  
13 participate with private financial institutions in making loans to a business enterprise if the loan will:

14 (i) result in the creation of a business estimated to employ at least 10 people in Montana on a  
15 permanent, full-time basis;

16 (ii) result in the expansion of a business estimated to employ at least an additional 10 people in Montana  
17 on a permanent, full-time basis; or

18 (iii) prevent the elimination of the jobs of at least 10 Montana residents who are permanent, full-time  
19 employees of the business.

20 (b) Loans under this section may be made only to business enterprises that are producing or will  
21 produce value-added products or commodities.

22 (c) A loan made pursuant to this section does not qualify for a job credit interest rate reduction under  
23 17-6-318.

24 (2) A loan made pursuant to this section may not exceed 1% of the coal severance tax permanent fund  
25 and must comply with each of the following requirements:

26 (a) (i) The business enterprise seeking a loan must have a cash equity position equal to at least 25%  
27 of the total loan amount.

28 (ii) A participating private financial institution may not require the business to have an equity position  
29 greater than 50% of the total loan amount.

30 (iii) If additional security or guarantees, exclusive of federal guarantees, are required to cover a



1 participating private financial institution, then the additional security or guarantees must be proportional to the  
2 amount loaned by all participants, including the board of investments.

3 (b) The board shall provide 75% of the total loan amount.

4 (c) The term of the loan may not exceed 15 years unless the loan is for the production of alcohol to be  
5 used as provided in Title 15, chapter 70, part 5. The term of a loan for the production of alcohol may not exceed  
6 30 years.

7 (d) The board shall charge interest at the following annual rate:

8 (i) 2% for the first 5 years if 15 or more jobs are created or retained;

9 (ii) 4% for the first 5 years if 10 to 14 jobs are created or retained;

10 (iii) 6% for the second 5 years; and

11 (iv) the board's posted interest rate for the third 5 years, but not to exceed 10% a year.

12 (e) (i) The interest rates in subsections (2)(d)(i) and (2)(d)(ii) become effective when the board receives  
13 certification that the required number of jobs has been created or as provided in subsection (2)(e)(ii). If the board  
14 disburses loan proceeds prior to creation of the required jobs, the loan must bear interest at the board's posted  
15 rate.

16 (ii) In establishing interest rates under subsections (2)(d)(i) and (2)(d)(ii) for preventing the elimination  
17 of jobs, the board shall require the submission of financial data that allows the board to determine if the loan and  
18 interest rate will in fact prevent the elimination of jobs.

19 (f) If a business entitled to the interest rate in subsection (2)(d)(i) or (2)(d)(ii) reduces the number of  
20 required jobs, the board may apply a graduated scale to increase the interest rate, not to exceed the board's  
21 posted rate.

22 (g) For purposes of calculating job creation or retention requirements, the board shall use the average  
23 weekly salary, as defined in 39-71-116, multiplied by the number of jobs required. This calculated number is the  
24 minimum aggregate salary threshold that is required to be eligible for a reduced interest rate. If individual jobs  
25 created pay less than the average weekly salary, the borrower shall create more jobs to meet the minimum  
26 aggregate salary threshold. If fewer jobs are created or retained than required in subsection (2)(d)(i) or (2)(d)(ii)  
27 but aggregate salaries meet the minimum aggregate salary threshold, the borrower is eligible for the reduced  
28 interest rate. A job paying less than the minimum wage, provided for in 39-3-409, may not be included in the  
29 required number of jobs.

30 (h) (i) A participating private financial institution may charge interest in an amount equal to the national

1 prime interest rate, adjusted on January 1 of each year, but the interest rate may not be less than 6% or greater  
2 than 12%.

3 (ii) At the borrower's discretion, the borrower may request the lead lender to change this prime rate to  
4 an adjustable or fixed rate on terms acceptable to the borrower and lender.

5 (iii) A participating private financial institution, or lead private financial institution if more than one is  
6 participating, may charge a 0.5% annual service fee.

7 (i) The business enterprise may not be charged a loan prepayment penalty.

8 (j) The loan agreement must contain provisions providing for pro rata lien priority and pro rata liquidation  
9 provisions based upon the loan percentage of the board and each participating private lender.

10 (3) If a portion of a loan made pursuant to this section is for construction, disbursement of that portion  
11 of the loan must be made based upon the percentage of completion to ensure that the construction portion of  
12 the loan is advanced prior to completion of the project.

13 (4) A private financial institution shall participate in a loan made pursuant to this section to the extent  
14 of 85% of its lending limit or 25% of the loan, whichever is less. However, the board's participation in the loan  
15 must be 75% of the loan amount.

16 (5) (a) A Except as provided in subsection (5)(b), a business enterprise receiving a loan under the  
17 provisions of this section may not pay bonuses or dividends to investors until the loan has been paid off, except  
18 that incentives may be paid to employees for achieving performance standards or goals.

19 (b) A business enterprise for the production of alcohol to be used as provided in Title 15, chapter 70,  
20 part 5, may pay dividends to investors and bonuses to employees if the business enterprise is current on its loan  
21 payments and has available funds equal to at least 5% of the outstanding principal balance of the loan.

22 (6) The board may adopt rules that it considers necessary to implement this section."  
23

24 **Section 8.** Section 82-15-103, MCA, is amended to read:

25 **"82-15-103. Standards for petroleum products.** The standards and specifications for petroleum  
26 products, including but not limited to gasoline, gasohol, fuel oils, diesel fuel, biodiesel, kerosene, and liquefied  
27 petroleum gases, ~~shall~~ must be determined by the department and, subject to the provisions of [section 10(1)],  
28 ~~shall~~ must be based upon nationally recognized standards and specifications such as those that are published  
29 from time to time by the American society for testing materials. ~~When so determined by~~ The standards and  
30 specifications adopted by rule by the department and adopted as rules, such standards and specifications are

1 the standards and specifications for ~~such those~~ products sold in this state and official tests of ~~such those~~  
2 products ~~shall~~ must be based upon ~~them~~ the adopted standards and specifications."

3  
4 **Section 9.** Section 82-15-110, MCA, is amended to read:

5 **"82-15-110. Unlawful acts.** It is unlawful to:

6 (1) use any meter or mechanical device for the measurement of gasoline or liquid fuels unless the ~~same~~  
7 meter or mechanical device has been approved by the department and sealed as correct;

8 (2) change or in any way tamper with the department's seal without written consent from the  
9 department;

10 (3) make hose delivery from petroleum vehicle tanks unless the tanks have been calibrated by the  
11 department under 82-15-108;

12 (4) sell or deliver liquefied petroleum to a consumer as a liquid or vapor except as provided by  
13 82-15-109;

14 (5) sell or offer for sale or deliver liquefied petroleum to a consumer as a liquid or vapor the  
15 measurement of which has not been temperature corrected to 60 degrees F by means of an automatic  
16 compensating device ~~which that~~ has been approved, calibrated, and sealed by the department, unless otherwise  
17 provided by the department;

18 (6) sell, offer, or expose for sale any petroleum product for which standards or minimum specifications  
19 have been set by the department unless the ~~commodities~~ fuel product meets in all respects ~~meet~~ the tests and  
20 standards prescribed;

21 (7) sell, offer, or expose for sale any petroleum product ~~which that~~ is adulterated, mislabeled, or  
22 misrepresented with respect to the use for which it is reasonably intended; or

23 (8) sell, offer, or expose for sale ethanol-blended gasoline or gasoline that contains methyl tertiary butyl  
24 ether (MTBE) in violation of the provisions of [section 10] after July 1, 2007."

25  
26 **NEW SECTION. Section 10. Required use of gasoline blended with alcohol.** (1) Within 12 months  
27 after the department has certified that 30 million gallons of denatured ethanol have been produced in the state,  
28 the department shall adopt standards and specifications pursuant to 82-15-103 that ensure that all gasoline sold  
29 to consumers for use in motor vehicles to be operated on the public highways, roads, and streets of this state  
30 must be blended with 10%, by volume, of agriculturally derived, denatured ethanol and may not contain more

1 than trace amounts of the additive commonly known as MTBE (methyl tertiary butyl ether).

2 (2) Except as provided in [section 11], within 12 months after the department has certified that 30 million  
3 gallons of denatured ethanol have been produced in the state, a fuel retailer who sells gasoline to consumers  
4 to be used in their vehicles on the public highways, roads, and streets of this state may not accept gasoline for  
5 sale to consumers or sell gasoline to consumers that is not ethanol-blended as provided in subsection (1) or that  
6 contains the additive MTBE.

7 (3) Agriculturally denatured ethanol referred to in subsection (1) may be denatured only as specified in  
8 Title 27, parts 20 and 21, of the Code of Federal Regulations.

9  
10 **NEW SECTION. Section 11. Exemptions from use of ethanol-blended gasoline.** (1) Gasoline that  
11 is not ethanol-blended as required in [section 10] may be sold or dispensed at a public or private racecourse if  
12 the gasoline is intended to be used exclusively as a fuel for off-highway motor sports racing events.

13 (2) A gasoline retailer may sell or offer for sale nonethanol-blended gasoline for use in collector vehicles,  
14 vehicles eligible to be licensed as collector vehicles, off-road vehicles, motorcycles, boats, airplanes authorized  
15 to use gasoline, snowmobiles, or small engines.

16  
17 **NEW SECTION. Section 12. Repealer.** Sections 15-70-245 and 15-70-370, MCA, and section 13,  
18 Chapter 568, Laws of 2001, are repealed.

19  
20 **NEW SECTION. Section 13. Codification instruction.** [Sections 10 and 11] are intended to be  
21 codified as an integral part of Title 82, chapter 15, part 1, and the provisions of Title 82, chapter 15, part 1, apply  
22 to [sections 10 and 11].

23  
24 **NEW SECTION. Section 14. Effective date.** [This act] is effective on passage and approval.

25 - END -